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18 Attorneys for Defendant NATIONAL FIRE &  
MARINE INSURANCE COMPANY

19  
20 **UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

21 NORTHERN INSURANCE COMPANY OF  
NEW YORK,

22 Plaintiff,

23 v.

24 NATIONAL FIRE & MARINE INSURANCE  
COMPANY,

25 Defendant.

Case No. 2:11-cv-01672-PMP-GWF

~~PROPOSED~~ PROTECTIVE  
ORDER GOVERNING  
CONFIDENTIALITY OF  
DOCUMENTS

1 Having reviewed and considered the matter, and for good cause shown, the Court grants  
2 Defendant National Fire & Marine Insurance Company's Motion for Protective Order (Dkt.  
3 #56). National Fire may produce the sixty-four claims files described in its motion which have  
4 been bate-stamped, marked "Confidential", and copied for production pursuant to a protective  
5 order on the following terms.

- 6 1. The claims files of the non-party insureds marked "Confidential" by National Fire  
7 shall not be furnished, shown, or disclosed to any person or entity except to:
  - 8 a. personnel of Plaintiff or Defendant actually engaged in assisting in the  
9 preparation of this action for trial or other proceeding in this case;
  - 10 b. counsel for the parties to this action and their associated attorneys,  
11 paralegals and other professional personnel (including support staff) who  
12 are directly assisting such counsel in the preparation of this action for trial  
13 or other proceedings under the supervision or control of such counsel;
  - 14 c. expert witnesses or consultants (and their associated personnel and staff)  
15 retained by the parties or their counsel to furnish technical or expert  
16 services in connection with this action or to give testimony with respect to  
17 the subject matter of this action at the trial of this action or other  
18 proceedings in this case;
  - 19 d. reinsurers, accountants, auditors or a non-party to whom a party is legally  
20 obligated or to whom it has a pre-existing contractual obligation in the  
21 ordinary course of business to make disclosure of Confidential  
22 Information;
  - 23 e. the Court and court personnel;
  - 24 f. an officer before whom a deposition is taken, including stenographic  
25 reporters and any necessary secretarial, clerical or other personnel of such

officer;

g. outside photocopying, graphic reproduction services, or litigation support services; and

h. trial and deposition witnesses.

2. These documents may not be used by counsel and the persons or entities described in the preceding paragraph except for purposes of this litigation, without the written consent of National Fire or further order of this Court.

3. These documents may be filed using the Court's ECF system and will not be filed under seal without leave of Court.

4. If, after the documents have been produced by National Fire, Plaintiff disputes National Fire's designation of any document as "Confidential", Plaintiff shall serve written notice of objection to the designation upon National Fire. The notice of objection shall specify the material or information that Plaintiff believes is not properly designated and provide a detailed explanation of why the designation should be removed. The parties shall meet and confer in a good faith effort to resolve any dispute concerning the propriety of marking documents as "Confidential" without court intervention. However, if the parties are unable to agree, Plaintiff may file a motion seeking an order of the Court resolving their dispute. National Fire shall have the burden of establishing whether any particular document or information designated as "Confidential" is entitled to protection under this order.

5. Nothing in this order precludes Plaintiff or Defendant from using the documents produced in this lawsuit and marked "Confidential" pursuant to this protective order, subject to the restrictions set forth in this order, in a related equitable contribution case between Plaintiff (or its affiliates) and Defendant (or its affiliates)

1 involving underlying construction defect claims if the documents are relevant to  
2 that related case and have not been separately produced in the related case.

3 6. This protective order shall continue to be binding after the conclusion of this  
4 litigation. However, the parties are not restricted from disclosing documents used  
5 as exhibits in court unless those exhibits were authorized to be filed under seal.  
6 Additionally, any party may seek to modify or dissolve this order.

7 7. The Court will retain jurisdiction after termination of this action to enforce the  
8 terms of this order.

9 Dated: this 21<sup>st</sup> day of May, 2013.

10 SIMPSON THACHER & BARTLETT LLP

BAILEY❖KENNEDY

11 Mary Beth Forshaw (*pro hac vice*)

By: /s/ Sarah E. Harmon

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*Attorneys for National Fire & Marine Insurance Company*

23 IT IS SO ORDERED.

24 DATED this 28 day of May, 2013



GEORGE FOLEY, JR.  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

In accordance with Federal Rules of Civil Procedure 5(b), I certify that I am an employee of Bailey❖Kennedy and that on the 21<sup>st</sup> day of May, 2013, a copy of [PROPOSED] PROTECTIVE ORDER GOVERNING CONFIDENTIALITY OF DOCUMENTS was served on the parties by filing and serving the same using the ECF system or by United States mail postage prepaid as follows:

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/s/ Jennifer Kennedy  
An employee of BAILEY❖KENNEDY